

Exceptional Event Demonstration Submittal, Flagging, and Review Process for Industrial Monitors

The following is meant to be an informal process for the AQD's review of voluntary submittal requests that certain monitored data be flagged as influenced by Exceptional Events (EEs). It is meant to be instructive rather than exhaustive, as each situation is unique. Sources may also have air quality permit notification requirements specific to their facility that must also be followed.

Definition of an Exceptional Event as found in 40 CFR Part 50:

50.1 (j): Exceptional event means an event that affects air quality, is not reasonably controllable or preventable, is an event caused by human activity that is unlikely to recur at a particular location or a natural event, and is determined by the Administrator in accordance with 40 CFR 50.14 to be an exceptional event. It does not include stagnation of air masses or meteorological inversions, a meteorological event involving high temperatures or lack of precipitation, or air pollution relating to source noncompliance.

Per the Exceptional Event rule found in 40 CFR 50.14, the demonstration to justify data exclusion shall provide evidence that:

- (A) The event satisfies the criteria set forth in 40 CFR 50.1(j);
- (B) There is a clear causal relationship between the measurement under consideration and the event that is claimed to have affected the air quality in the area;
- (C) The event is associated with a measured concentration in excess of normal historical fluctuations, including background; and
- (D) There would have been no exceedance or violation but for the event.

The Exceptional Event process is voluntary. Facilities are not required to request that their exceedance be flagged as due to Exceptional Events. In cases where the Air Quality Division (AQD) does not receive a request to flag data as due to Exceptional Events, the AQD will treat the data as an exceedance of the National Ambient Air Quality Standard (NAAQS).

Facilities should provide as much detail as possible in the flag request and associated demonstration (EE demonstration), which address the requirements of 40 CFR Part 50.14. Supplemental items that may be beneficial in the EE demonstration include but are not limited to: photos of event, photos of the source of the exceedance, daily logs, continuous monitoring reports, dust or high wind plans, a conceptual model (description) of the event, and any actions the facility took to lower the concentration. The AQD has produced a document that includes examples of these technical elements. This document titled "Technical Elements of Exceptional Event and Natural Event Action Plan Demonstrations" can be found on DEQ's website at

<http://deq.wyoming.gov/aqd/monitoring/resources/reference-documents/>

Facilities are reminded that demonstrations will be reviewed by people who are unfamiliar with the layout and operation of the particular facility in question, so detail is important.

Additional Treatment of Data Influenced by Exceptional Event information can be found by visiting the EPA's website <http://www.epa.gov/ttn/analysis/exevents.htm>.

Demonstration submittal

The hard copy EE demonstration should be submitted, by the facility, to AQD within 60 days after the end of the quarter that the exceedance occurred. The requirement to submit EE demonstrations to the AQD as noted above and in the Division's July 15, 2011 letter regarding Ambient Monitoring Exceedance Documentation Guidance takes into account the required deadline of July 1st to flag the data per 40 CFR Part 50.14, which entails completion of public notice requirements for the AQD and response to public comment. The AQD does have the ability to review the EE demonstration if it is submitted before the due date.

EE demonstrations will be reviewed in the order received and EE demonstrations received after the due date will be placed at the end of the queue. Please limit the page size, including maps, to no larger than 11X17.

A receipt letter, addressed to the facility, will be drafted by the AQD to verify EE demonstration submittal.

Team Approach

The EE demonstration will be reviewed by a team comprised of at least three individuals from various AQD sections. The Monitoring, New Source Review, and Compliance sections are usually represented on each EE team. Each team member brings their unique experience and perspective to the EE review team.

After the AQD review team has been selected, the Monitoring Project Manager will distribute the facility's EE demonstration and all necessary rules and guidance documents needed for team review. The Monitoring Project Manager will have the data for the EE request flagged in the EPA-AQS database as "Potential Exceptional Event under evaluation by the AQD".

Team Review

This process may be altered or shortened if facilities are not on time with their EE requests to flag data. The AQD level of review for EE demonstrations is greatly dependent on the level of detail and information provided by the facility in the request to flag the exceedance.

1. The initial team review will occur. If at this time, the EE demonstration is acceptable and meets all requirements under the EE rule skip to Team Review step 7.
2. If during the initial review questions arise that the team wishes to have answered with additional information not supplied by the facility, a certified return receipt Additional Information Request Letter will be sent to the facility under the Monitoring Project Manager's signature. Two (2) week turnaround timeframe for the facility's response is common, but could be shorter depending on deadlines. The letter will be filed in the Monitoring Section public files.
3. Additional information received from facility. An electronic response is acceptable with hard copy following.
4. The second team review will occur. If at this time, the EE demonstration is acceptable and meets all requirements under the EE rule skip to Team Review step 7.
5. If during the second review questions arise that the team wishes to have answered with additional information not supplied by the facility, a certified return receipt Additional Information Request Letter will be sent to the facility under the Monitoring Project Manager's signature. Two (2) week turnaround timeframe for the facility's response is common, but could be shorter depending on deadlines. The letter will be filed in the Monitoring Section public files.
6. Additional information received from facility. An electronic response is acceptable with hard copy following.
7. The team will review for the final time and make a decision as to if the required elements needed to exclude event-related concentrations from regulatory determinations were met in the submitted EE demonstration. If a unanimous decision is not reached assistance from the Supervisor, Program Manager, or AQD Administrator will be requested. The final Memo will be created by the Monitoring Project Manager and all team members will edit the memo for accuracy and initial. The Memo will be sent through the Monitoring Section Supervisor, the AQRM Manager, and the AQD Administrator. The Memo will be filed in the Monitoring Section public files and copied to the District Engineer and Compliance Program Manager. Move to Next Steps section.

Next Steps

Flag not pursued by AQD

The final team review memo, from Team Review step 7 above, will include as part of the Conclusions Section a referral to the District Engineer of the Compliance Program for any further actions. The Monitoring Project Manager will discuss the team findings with the Compliance Program Manager and District Engineer. A letter with the team findings and reason why the requested flag will not be pursued by the AQD will be sent to the facility. This letter will be signed by the Monitoring Section Supervisor, will be filed in the Monitoring Section public files, and copied to the District Engineer.

Flag pursued by AQD

A letter describing the team decision to flag the data is sent to the facility. This letter is signed by the Monitoring Section Supervisor. A complete electronic version of the final EE demonstration will be submitted, by the facility, for posting on the WDEQ website for the required 30 day Public Notice. The Public Notice is usually advertised in the Casper Star Tribune and one to three local newspapers.

- If **no** comments are received during the Public Notice period, proceed to EPA submittal section.
- If comments are received, the Monitoring Project Manager will review the comments. The EE review team may be reconvened to determine if comments warrant changes to the request to flag the data. Additional information may be necessary and required from the facility to address substantive public comments. If additional information is necessary, a certified return receipt Additional Information Request Letter will be sent to the facility under the Monitoring Project Manager's signature. Two (2) week turnaround timeframe for the facility's response is common, but could be shorter depending on deadlines. The Monitoring Project Manager will formulate a response to comments. The EE review team will make the decision to proceed to EPA Submittal section below or the aforementioned Flag not pursued by AQD section above.

EPA Submittal

The AQD Monitoring Section strives to submit the EE demonstrations to EPA Region 8 by July 1st of the year following the exceedance. A cover letter transmitting the EE demonstration and asking for flag concurrence by EPA Region 8 will be prepared by the Monitoring Project Manager. The cover letter will be signed by the AQD Administrator. The EPA Region 8 submittal will include: the cover letter, facility's EE demonstration, all public comments (if received) and responses, and all Public Notice affidavits. This entire submittal will be filed in the Monitoring Section public files, the cover letter will be copied to the appropriate District Engineer of the Compliance Program and the facility.

EPA Review and Decision

EPA Region 8 will review the submittal and make a final decision on the request to flag the EE. EPA may ask the Division or the facility for additional information during their review process. There is no established time frame for EPA to make a decision. Once the review is complete, a letter will be sent from EPA Region 8 with their decision to the AQD.

The Division's actions to flag, not flag, remove a flag, modify a flag, submit, not submit, or request EPA action on any submitted exceptional event demonstration are not final agency actions subject to administrative or judicial review, nor are such actions rulemaking under the Wyoming Administrative Procedure Act.

Questions

Dan Sharon at (307) 777-7104 or daniel.sharon@wyo.gov is the AQD contact person for coal mines with questions regarding the Exceptional Event process. Aaron Maisch at (307) 777-6903 or aaron.maisch@wyo.gov is the AQD contact person for Trona mines and processing facilities with questions regarding the Exceptional Event process. Kirk Billings at (307) 335-6963 or kirk.billings@wyo.gov is the AQD contact person for all other facilities regarding the Exceptional Event process.